

REMARKS

Reconsideration of the application is respectfully requested.

The present invention is directed to edible composition comprising carotenoids and phytosterols wherein at least 20 wt. % of the carotenoids are in another phase than the majority of the phytosterols. It has been reported that diets with an effective amount of cholesterol lowering phytosterol resulted in a measurable decrease of lipophilic carotenoids in the blood. The present invention is directed to a solution for that problem whereby carotenoid status is maintained or preferably increased notwithstanding that the blood cholesterol lowering effect of the sterols can also be obtained. The Office points to no teaching in the cited art of the potential problem of carotenoid depletion when using sterols and even less of any solution to the problem. The invention is not merely the combination of sterols and carotenoids, but is directed to ensuring that at least 20 wt. % of the carotenoids are in a different phase from the majority of the phytosterols.

It is submitted that the Office impermissibly uses Applicant's specification to arrive at a solution to the problem discovered by Applicant. Employing hindsight, the Office combines a reference teaching the use of carrots with a spread including sterols to thereby arrive at a combination of carotenoids and sterols. It is submitted once again that this employs this forbidden hindsight. Consequently, it is respectfully requested that the rejection be withdrawn and the application be allowed.

The Office Action indicates both that the action is final and non-final. In case it is considered final, Applicants enclose a Notice of Appeal.

Respectfully submitted,



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